

**DEPARTMENT OF STATE REVENUE**

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**LETTER OF FINDINGS NUMBER: 98-0203 MVE**

**Motor Vehicle Excise Tax**

**For Tax Period: 05/31/94 Through 09/30/97**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Motor Vehicle Excise Tax – Imposition**

**Authority:** IC 9-18-2-1

Taxpayer protests the imposition of the motor vehicle excise tax on a 1994 Ford and 1989 Mercury.

**II. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1

Taxpayer protests the imposition of a ten percent penalty on his motor vehicle excise tax assessments.

**STATEMENT OF FACTS**

Taxpayer was assessed the motor vehicle excise tax on two vehicles owned by him. Taxpayer filed full-year resident, Indiana individual income tax returns for tax years 1992 through 1996 and possessed an Indiana driver's license. Taxpayer did not register the 1994 Ford or the 1989 Mercury in Indiana throughout the assessment period. The Department assessed the motor vehicle excise tax plus penalty and the taxpayer protested. Additional relevant facts will be provided below, as necessary.

**I. Motor Vehicle Excise Tax – Imposition**

**DISCUSSION**

Pursuant to Indiana Code section 9-18-2-1, an Indiana resident is required to register all motor vehicles owned by that person that are operated in Indiana.

Taxpayer claims he was not required to register his motor vehicles in Indiana because he was living in Ohio during the assessment period. Taxpayer states his primary residence was at his family's second home in Ohio. Taxpayer concedes he used the vehicles to travel between the home in Indiana, occupied by his wife, and the home in Ohio.

The Department based the assessments of the motor vehicle excise tax on the taxpayer's filing of full-year resident Indiana tax returns and the possession of an Indiana driver's license. The Department finds the taxpayer's determination of his residency to be binding for motor vehicle excise tax purposes.

**FINDING**

Taxpayer's protest is denied. Taxpayer was a resident of Indiana throughout the assessment period and was required to register his vehicles in Indiana when they were operated in Indiana.

**II. Tax Administration – Penalty**

**DISCUSSION**

Pursuant to Indiana Code section 6-8.1-10-2.1, the Department may waive the penalty upon the taxpayer's affirmative showing of a reasonable cause for the failure to pay the proper tax.

Taxpayer has submitted evidence of his owning a home in Ohio and insuring his 1994 Ford in Ohio. Taxpayer claims he had reasonable cause to believe his residency in Ohio allowed for the proper registration of his vehicles in Ohio.

The Department finds the taxpayer had a reasonable cause to believe the 1994 Ford was not required to be registered in Indiana. The Department does not find reasonable cause for the 1989 Mercury to not be registered in Indiana.

**FINDING**

Taxpayer's protest is sustained in part and denied in part. The Department will waive the penalty imposed on the motor vehicle excise tax assessment for the 1994 Ford. The Department will not waive the penalty imposed on the motor vehicle excise tax assessment for the 1989 Mercury.